

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:05cr200

UNITED STATES OF AMERICA,)

)

)

vs.)

)

)

FELIPE GUARDIAN-QUERIAPA.)

)

ORDER

THIS MATTER is before the Court on the Defendant's motion for a copy of transcripts of his Rule 11 inquiry and sentencing hearing at Government expense. He also seeks a copy of his docket sheet.

Although the Defendant was provided court-appointed counsel for the criminal proceedings in this Court, that does not automatically entitle him to indigency status for purposes of this motion. A defendant may not obtain transcripts of the proceedings in his case unless this Court "certifies that the suit or appeal is not frivolous and that the transcript is needed to decide the issue presented by the suit or appeal." **28 U.S.C. §753(f)**.

There is no suit or other proceeding pending in this court. Nor did the Defendant appeal his conviction or sentence.

As a result, the Defendant must show that his request "is not frivolous and that the transcript is needed to decide the issue presented."

Id. Federal inmates are not entitled to transcripts at Government expense for collateral attacks on their convictions absent some showing of a particularized need. **United States v. MacCollom**, 426 U.S. 317, 326-27 (1976); **Miller v. Smith**, 99 F.3d 120, 125 n.5 (4th Cir. 1996); **United States v. Davis**, 972 F.2d 342 (table), 1992 WL 180109 (4th Cir. 1992).

"An indigent is not entitled to a transcript at government expense without a showing of need, merely to comb the record in the hope of discovering some flaw." **Jones v. Virginia State Farm**, 460 F.2d 150, 152 (4th Cir. 1972).

While the Defendant's requests for free transcripts will be denied, the Clerk of Court will be instructed to mail him a copy of the docket sheet for his case.

IT IS, THEREFORE, ORDERED that the Defendant's motion for the provision of transcripts at Government expense is hereby **DENIED**.

The Clerk of Court is requested to mail to the Defendant at the address provided in his motion a copy of the docket sheet for his criminal case.

Signed: February 1, 2007

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", written over a horizontal line.

Lacy H. Thornburg
United States District Judge

